# Hoonah Indian Association

**P.O. Box 602**
**Hoonah, AK 99829-0602**
Phone (907) 945-3545 Fax (907) 945-3703


March 23, 2004


RECEIVED
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BUREAU OF INDIAN AFFAIRS
OFFICE OF THE REGIONAL DIRECTOR


Mr. Niles Caesar
Regional Director
Bureau of Indian Affairs
P.O. Box 25520
Juneau, Alaska 99801

Re: Revision of the Hoonah Indian Association Constitution

Dear Mr. Caesar:

For over nine months the Hoonah Indian Association Board of Directors has been working to revise its constitution that was established with the assistance of the Department of the Interior in 1939. The Board of Directors working with the assistance of Bob Loescher of Loescher and Associates, LLC, reviewed the constitutions of Sitka Tribes of Alaska, Ketchikan Indian Corporation, Metlakatla, the Central Council of the Tlingit and Haida Indians of Alaska and its own existing charter. Looking at the experience of these other recognized tribal governments and reviewing the many laws that congress has adopted related to American Indians and Alaskan Natives, it concluded its final review and voted to forward the attached draft constitution to the Bureau of Indian of Affairs for its review and comment. It is our understanding that the Bureau of Indian Affairs will review the proposed constitution and send its comments back for our consideration. After the Board has considered the Bureau of Indian Affairs recommendations and comments, we understand we can send the final document to your office and that you will request the authority of the Secretary of the Interior to set a date for an election for the approval of the constitution of our enrolled tribal members. If this is the correct process we must go through to revise our constitution, we request that you confirm this to us in writing.

We respectfully request that you undertake your review of this proposed constitution as soon as possible. Thanking you for this consideration.

Sincerely,

Johanna Dybdahl
Tribal Administrator

cc: Frank Wright, Jr., President
Robert W. Loescher

# Hoonah Indian Association

**P.O. Box 602**
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**Hoonah Indian Association**
**Board Meeting**
**February 10, 2004**

**Present:**
Frank Wright Jr.
Dennis Gray Sr.
Stan Haldane
Mike See
Mary Rudolph
Jack Lee

**Absent:**
Harry Sharclane
Excused

**Others:**
Johanna Dybdahl
Bob Loescher

Meeting is called to order at 4:38 P.M. by President Wright

Roll Call

M/S Jack Lee/Mike See to accept the agenda M/C

M/S Stan Haldane/Jack Lee to accept reading of the minutes of January 17, 2004 M/C

Report by Bob Loescher: Advance to BIA Tribal Constitution for mark-up – Suggest ordinance for blood quantum

M/S Dennis Gray/Mary Rudolph to send (advance) Final Draft Constitution to BIA & tribal members for comments- M/C

M/S Stan Haldane/ Dennis Gray Sr. to continue on IFQ Program. M/C

Appointment of Committee Chairman's:
(Enclosed)

M/S Mary Rudolph/Jack Lee to adopt Resolution 01-04 Titled: **Directing that the Bureau of Indian Affairs, Road Maintenance Funds be disbursed to the Hoonah Indian Association**, Amended to quorum M/C

M/S Dennis Gray/Mike See to adjourn M/C 6:30 P.M

# CONSTITUTION OF THE HOONAH TRIBE(S) OF ALASKA

## PREAMBLE

We, the citizens of the sovereign Hoonah Tribe(s) of Alaska, in order to establish a more perfect tribal government, to preserve our identity as Indigenous Tribes and the identity and culture of their members and descendants as Indigenous people, to provide for the exercise of their tribal sovereignty and the governance of the property and affairs of the Tribes, and to promote the dignity and welfare of the tribal citizens, to preserve and exercise the Tribe's inherent sovereign rights and powers, to provide for our posterity, to conserve tribal lands and resources, and to establish justice, pursuant to Tlingit tribal law and custom and federal law by authority of the Act of June 18, 1934, (48 Stat. 984) as amended, do ordain and establish this Constitution.

The Constitution of the Hoonah Indian Association, approved by the Secretary of the Interior of July 18, 1938, is hereby superseded to the extent not in conflict with this Constitution.

## ARTICLE I. NAME

The Tribe, formerly known as the Hoonah Indian Association, shall hereafter be known as the "Hoonah Tribe(s) of Alaska", a federally recognized sovereign tribe.

## ARTICLE II. TERRITORY AND JURISDICTION

**Section 1. The Territory and Jurisdiction** of the Hoonah Tribe(s) of Alaska shall extend to all lands constituting the Native Village of Hoonah and the areas formerly known as "Indian Possessions" and to all surrounding areas of Indian Country, if any, including all customary and traditional use and access areas more particularly described as follows:

The southern portion of this territory extends from Lisianski Strait to Whitestone Harbor and includes Yakobi Island, north of Surge Bay, Lisianski Inlet, the head of Tenakee Inlet reached by portage and all the islands, inlets and bays of the Cross Sound/Icy Straits region including the Inian Islands, George Islands, Three Hill Island, Lemesurier Island, Pleasant Island, Porpoise Islands, Port Althrop, Idaho Inlet, Mud Bay, the areas around Point Adolphus, and all of Port Frederick.

Mainland areas in the north extend from the outside coast at Cape Fairweather, southeast along the outside coast including Lituya Bay, and all bays and inlets of the Cross Sound/Icy Straits region as far as and including Point Couverden. This incorporates but is not limited to Icy Point, Palma Bay, Dixon Harbor, Torch Bay, Graves Harbor, Dicks Arm, Taylor Bay, Dundas Bay, all of Glacier Bay and Excursion Inlet. The northern portion of this territory and jurisdiction incorporates all of Mount Fairweather and to the heads of Tarr Inlet, Rendu Inlet, Queen Inlet, Muir Inlet, Bartlett Cove, Gustavus and Excursion Inlet.

In conformance with applicable federal law, the territory and jurisdiction of the Tribes shall include:

a. All lands, islands, waters, airspace, or any interest therein within the boundaries of any reservation and including lands in Alaska conveyed under the Alaska Native Claims Settlement Act (ANCSA), or amendments thereto, which may be established for the Tribes, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.
b. All lands, islands, waters, airspace, or any interest therein now or hereafter held in trust status for the Tribes or any enrolled member thereof whether inside or outside the boundaries of any established reservation, and including lands in Alaska conveyed under ANCSA.

All persons, property and activities located or found within the Tribe's jurisdiction.

This includes all fee lands and allotments and lands owned by Sealaska Corporation or Huna Totem Corporation located therein (the Native corporations established pursuant to the Alaska Native Claims Settlement Act (P.L. 92-203) as amended to hold the land and other benefits provided by Congress in partial compensation for the extinguishment of the Tribe's aboriginal land rights), to the fullest extent permitted by federal and tribal law.

## ARTICLE III. SOVEREIGN POWERS

**Section 1. Duties of the Tribal Council.** The duties of the Hoonah Tribe(s) of Alaska are to secure, preserve and exercise the sovereign rights, powers, privileges, and immunities of the Tribes and all such other rights, powers, privileges, and immunities as the Tribes shall possess or be granted, to maintain a roll of and promote the welfare of the members tribal citizens of the Tribes, and to legislate for and govern the Tribes and their tribal citizens.

**Section 2. Sovereign Immunity.** The sovereign immunity of the Hoonah Tribe(s) of Alaska may be waived only by express legislative action of the Tribal Council after

consultation with the tribal attorneys. All waivers of sovereign immunity must be preserved with the acts and resolutions of the Tribal Council. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Tribes.

**Section 3. Resolution Waiving the Tribe's Sovereign Immunity.** No resolution generally waiving the Tribe's sovereign immunity shall be valid. To be valid, a resolution waiving the Tribes sovereign immunity must be specific and limited as to its duration, the grantee, the transaction, the court having jurisdiction and the law to be applied, and, if subject to the waiver, the property or funds of the Tribe subject to the waiver. No resolution shall be deemed a general consent to the levy of any judgment, lien or attachment upon the funds or property of the Tribe other than the funds or property specifically pledged, assigned or otherwise expressly made subject to levy in the resolution.

**Section 4. Sovereign Immunity of Subordinate Entities.** Subordinate entities of the Tribal Council shall have whatever sovereign immunity is expressly vested in them in their organic documents by the Tribal Council. The sovereign immunity of any such subordinate entity may be waived only by express resolution of the governing body thereof and pursuant to its organic document. Waivers of sovereign immunity of governmental subdivisions of the Hoonah Tribe(s) of Alaska are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the governmental subdivision. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the subordinate entity subject thereto, court having jurisdiction pursuant thereto and law applicable thereunder. No subordinate entity of the Hoonah Tribe(s) of Alaska may waive the sovereign immunity of the Tribe, nor may any action of a subordinate entity impair or affect the credit or assets of the Tribe in any manner.

## ARTICLE IV. BILL OF RIGHTS/INDIVIDUAL RIGHTS

**Section 1. The Tribe shall not make or enforce any law prohibiting** the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances.

**Section 2. The Tribe shall not violate the rights** of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

**Section 3. The Tribe shall not subject any person** for the same offense to be twice put in jeopardy.

**Section 4. The Tribe shall not compel any person** in any criminal case to be a witness against himself.

**Section 5. The Tribe shall not take any private property** for a public use without just compensation.

**Section 6. The Tribe shall not deny to any person** in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense.

**Section 7. The Tribe shall not require excessive bail,** impose excessive fines, inflect cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of twelve (12) months or a fine of $5,000.00, or both, except to the extent as may be authorized by amendment to this provision in accordance with the authority provided by the federal Indian Civil Rights Act.

**Section 8. The Tribe shall not deny to any person** within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.

**Section 9. The Tribe shall not pass any bill** of attainder or ex post facto law.

**Section 10. The Tribe shall not deny** to any person accused of an offense punishable by imprisonment the right upon request to a trial by jury of not less than six (6) persons.

**Section 11. The Tribe shall not restrict or in any way abridge** the rights of its enrolled Tribal members under the Constitutions of the United States or the State of Alaska. All members of record of the Hoonah Tribe(s) of Alaska shall be accorded equal rights and opportunity to participate in and enjoy the resources, property, and benefits of the Tribe. The right of the enrolled Tribal member to participate in and enjoy the resources, property and benefits of the Tribe shall not be subject to alienation, encumbrance, or transfer in any manner.

## ARTICLE V. POWERS OF THE TRIBAL COUNCIL

**Section A. The Tribal Council shall exercise** the following powers by appropriate proclamation, resolution, ordinance, public notice and/or motion:

1. To negotiate with tribal, federal, state, foreign and local governments and others on behalf of the Tribe, and to advise and consult with representatives of the United States and the State of Alaska and other states on all activities which may affect the Tribe.
2. To advise the Secretary of the Interior with regard to all appropriation estimates for federal projects for the benefit of the Tribe prior to the submission of such estimates to budgetary authorities and to Congress.

3. To act as the representative of its members in all negotiations, agreements, contracts and other transactions and dealings with any federal, state, local government or governmental agency, and other tribal entities which pertain to Indian tribes or Indian reservations or which otherwise affect the member of the Tribe.
4. To negotiate and enter into contracts with persons and entities of every kind and description, public and private.
5. To consult with and advise any and all persons, officers and entities, public and private, concerning subjects and matters affecting the interests of the Tribes.
6. To levy dues, taxes or license fees subject to approval by the tribal voters, and to otherwise raise revenue.
7. To exercise the power to tax and to establish tariffs, fees or assessments with respect to any person or entity within the territory and jurisdiction of the Tribes in conformance with applicable federal and tribal law.
8. To regulate the internal affairs and procedures of the Tribal Council.
9. To conduct and manage the affairs and property of the Tribes, and to provide services to individual tribal members, or to other entities owned by individual tribal members, including corporations organized pursuant to the Alaska Native Claims Settlement Act.
10. To direct subordinate boards, committees, Tribal Administrator and other Tribal officials, or Tribal employees to administer the affairs of the Tribe, and to carry out the directives of the Tribal Council.
11. To employ qualified persons to render professional and technical services as needed.
12. To manage, lease, exchange, acquire, or otherwise deal with Tribal or other property, and to protect and preserve the Tribal property and the wildlife and natural resources within those areas under the territory and jurisdiction of the Tribe.
13. To purchase, lease, take by gift, grant, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with money, securities, real and personal property, rights and services of any kind and description, or any interest therein, including any property obtained pursuant to the Alaska Native Claims Settlement Act as amended.
14. To sell, convey, grant, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its real and personal property and assets including any property obtained pursuant to the Alaska Native Claims Settlement Act as amended, except as prohibited by federal law.
15. To prevent the sale, disposition, lease or encumbrance of any property (including lands, waters, interests therein and all other assets) of the Tribe.

16. To prevent the sale, lease, encumbrance, attachment, or other disposition of or execution upon the lands, interests in lands, or other assets of the Tribe without the consent of the Tribal Council;
17. To borrow and raise money by all lawful means, and to pledge the credit of the Tribes.
18. To provide for the maintenance of law and order and the administration of justice, including through the establishment of an appropriate Tribal judicial system.
19. To safeguard and promote the peace, safety, morals, physical and general welfare of the citizens of the Tribe and their children.
20. To zone, exercise the power of eminent domain and otherwise regulate land use within those areas under the jurisdiction of the Tribe.
21. To prescribe the rules and procedures necessary to give effect to any provision of this Constitution by declaration, ordinance, resolution or legal public notice.
22. To employ legal counsel, provided that the exercise of this power shall be subject to the approval of the Secretary of the Interior so long as required by federal law.
23. To represent all members of the Hoonah Tribe(s) of Alaska before and within the assembly of the Central Council of Tlingit and Haida Indians of Alaska, a federally recognized regional Tribal entity.
24. To form a federation or union with other tribes as may be necessary.
25. To organize and charter subordinate entities such as business enterprises, nonprofit corporations, limited liability companies, for-profit corporations, joint venture companies, investment companies, trusts, foundations, associations and to join or charter utilities and service entities such as housing authorities, electrical companies, water and sewer utilities, telephone and communications companies.
26. To promote and protect the health, education, economic and general welfare of the citizens of the Tribe and their children, and to administer charity and such other services as may contribute to the social, traditional, cultural and economic development of the Tribe.
27. To encourage, guard and foster the traditional Tlingit cultural practices of the Hoonah Indian people, including the protection of artifacts and archaeological sites, and the promotion of Tlingit arts and crafts.
28. To cultivate the arts, crafts, and culture of the Tribe and its members and the Native people of Alaska;
29. To make assignments of land or water areas of the Tribe for use and occupancy to citizens of the Tribe in accordance with the customs of the Tribal members or with the laws and regulations of the Tribe.
30. To administer any funds within the control of the Tribe.
31. To enact resolutions and ordinances to safeguard and promote the peace, health, safety and general welfare of the Tribes in conformance with applicable federal and tribal law.

32. To regulate inheritance among citizens and their children whether by intestacy or otherwise, and other domestic relations matters.

**Section B. All rights and powers not delegated** to the Tribal Council in this Constitution are reserved to the people and may be exercised by the citizens of the Tribe through the adoption of amendments to this Constitution except as otherwise provided in this Constitution.

**Section C. The Tribal Council shall possess** such powers as are incident and necessary to the execution of the powers set forth above, and such further powers as it may from time to time be granted.

## ARTICLE VI. CITIZENSHIP/MEMBERSHIP

**Section 1. The membership of the Tribal Council** shall be as follows:

a. All persons whose names appear on the Tribal roll in effect December 31, 2003.
b. Descendants of those enrolled as of December 31, 2003, and all children either or both of whose parent(s) is an enrolled member within the territory and jurisdiction of the Tribe and has legal residence within the territory and jurisdiction of the Hoonah Tribe(s) of Alaska.
c. All other persons of Alaska Native or American Indian descendant who make a legal residence within the territory and jurisdiction of the Hoonah Tribe(s) of Alaska and are enrolled by the Tribal Council.

**Section 2. All Tribal members and their minor children** who cease to make a permanent home within the territory and jurisdiction of the Hoonah Tribe(s) of Alaska shall cease to be members of the Tribe until they resume their residency; except for those Tribal members who are engaged in the military, school, medical or health related temporary relocation.

**Section 3. The Tribal Council shall establish** an ordinance governing the enrollment of members and the conditions under which a member may abandon his membership, or having abandoned it, be re-enrolled to membership.

**Section 4. Definition of Residence.** Any person shall be considered a resident of Hoonah who resides within the territory and jurisdiction of the Hoonah Tribe(s) of Alaska which may be reserved or otherwise acquired for the use of Alaska Natives and American Indians.

**Section 5. To determine its membership** tribal citizenship.

**Section 6.** The Tribal Council shall maintain a roll of the members of the Tribe(s) and establish qualifications of persons applying for membership.

**Section 7. Loss of Citizenship or other Rights.** Any tribal citizen shall be deemed to have relinquished his or her citizenship by enrolling in another tribe, and may relinquish his or her citizenship in writing or, after notice and an opportunity to present

his defense, may have one or more of his or her citizenship rights (including voting rights or the right to hold elective office) taken away for good cause shown (including being found guilty by the Tribe of fraud or misconduct in his or her relations with the Tribe or of working deliberately against the interests of the Tribe) pursuant to an enrollment ordinance adopted in accordance with the provisions of this Article and upon the affirmative vote of two-thirds of the eligible voters present at a General Citizenship meeting. A person whose citizenship rights have been involuntarily taken away may only have his or her rights reinstated upon the affirmative vote of two-thirds of the eligible voters present at a General Citizenship meeting.

**Section 8. New Citizens.** Any person who has voluntarily relinquished his or her citizenship in the tribe, and any other person who is a member of (or is eligible for membership in) a Native American tribe, who sets up a permanent home in the territory and jurisdiction of the Tribe, who renounces in writing his or her membership in any other Tribe, who establishes social or cultural relations with the Tribe, and who agrees to be bound by this Constitution, may be made a tribal citizen upon such terms and conditions as may be established pursuant to an enrollment ordinance adopted in accordance with the provisions of this Article.

**Section 9. The members of the Hoonah Tribe(s) of Alaska** shall be Alaska Natives and person(s) who qualify as an "Indian" under Section 19 of the Act of Congress of June 18, 1934 (48 Stat. 984, 25 U.S.C. s 476), or any successor statute thereto, or who are recognized as a member of an "Indian Tribe" or "Indian organization" by the government of the United States of America residing in the territory and jurisdiction of the Hoonah Tribe(s) of Alaska.

## ARTICLE VII. GENERAL CITIZENSHIP MEETING

**Section 1. The membership of the Tribe shall** be given two-week notice to meet on the first Monday in December and the first Monday in March of each year.

**Section 2.** A **General Citizenship meeting** shall be called by the Tribal Council upon receipt of a petition specifically requesting such a meeting signed by no less than thirty percent of the eligible voters. Two-week written notice of special and regular General Citizenship meetings shall be posted in a public place and advertised generally in the community. A quorum shall be comprised of twenty percent of the eligible voters of the Tribe. The Tribal Council shall adopt an ordinance establishing rules and procedures for special and regular General Citizenship meetings. At such meetings, the General Citizenship shall furnish its advice to the Tribal Council.

**Section 3. Annual Reports.** The Tribal Council shall provide and present an annual report of its activities, including an audited financial statement and future budget projections, to Tribal members at the annual General Citizenship meeting.

# ARTICLE VIII. GOVERNING BODY

**Section 1. Tribal Council and Officers.** The governing body of the Hoonah Tribe(s) of Alaska shall be known as the Tribal Council. The Tribal Council shall consist of a Chairman and six (6) other members, all of who shall be entitled to vote. The seven (7) Council members shall be elected directly by the voters.

**Section 2. The Tribal Council shall organize** itself within ten (10) business days after each annual election date by electing from within its membership a Vice-Chairman, and from within or without, a Tribal Administrator and such other officers as it may deem necessary. Officer elected from without the Tribal Council shall not vote therein. The term of office of each elected officer shall expire when his successor is elected and qualified.

**Section 3. Duties of Officers.** The Chairman shall preside at all meetings of the tribe and of the Tribal Council. The Chairman may vote in all matters except on the matter of the Chairman's removal. The Chairman is the Chief Executive Officer of the Tribe and shall have general supervision of all other officers, employees, agents and committees and shall see that their duties are properly performed. The Chairman shall execute on behalf of the Tribe all contracts, leases or other documents approved by the Tribal Council, or delegate such responsibility to the Tribal Administrator. The Chairman shall be the official representative of the Tribe but shall make no financial or other commitment on behalf of the Tribe without the Tribal Council's approval. The Vice-Chairman shall assist the Chairman when called upon to do so and at the direction of the Chairman if the Chairman is absent or disabled, shall have all the rights, privileges, duties and responsibilities of the Chairman. The duties of all other officers shall be specified by the Tribal Council. Those officers shall be non-voting participants at Tribal Council meetings.

**Section 4. Actions of the Tribal Council.** All declarations, ordinances, resolutions, public notices and motions (other than routine motions) shall be acted upon by the Tribal Council by a roll call vote, and the vote of each member shall be recorded.

**Section 5. Ordinances.** An ordinance shall take effect only after being posted in a public place for thirty (30) days after its adoption by the Tribal Council, provided that an emergency ordinance shall take effect immediately. All enacted ordinances shall be made available for inspection by citizens of the Tribe at the Tribal office.

**Section 6. Records of the Hoonah Tribe(s) of Alaska** shall be available for inspection at the main office of the Tribal Council during business hours.

**Section 7. The duties of all appointed officers** or agents shall be clearly defined by a resolution of the Tribal Council at the time of their appointment.

**Section 8. When there is no special rule,** Robert's Rules of Order, as amended, shall be the law governing the procedure of the Tribal Council.

**Section 9. The books and records** of the Hoonah Tribe(s) of Alaska shall be audited at least once a year by an independent auditor employed by the Tribal Council.

## ARTICLE IX. CONDUCT OF TRIBAL COUNCIL MEETINGS, SPECIAL MEETINGS, AGENDA AND BY-LAWS

**Section 1. Council Meetings.** The Tribal Council shall meet each month on a date and place to be fixed by resolution of the Tribal Council, and at such other times and places as may be designated by motion of a majority of the Tribal Council or by the Chairman. The Chairman shall direct that personal notice be provided to each Council member no less than forty-eight (48) hours prior to any meeting. A quorum to transact business shall consist of at least five (5) Council members. To be effective, a majority of the members present shall vote on all motions, resolutions, ordinances, pubic notices and declarations.

## ARTICLE X. TRIBAL ADMINISTRATOR

**Section 1. The Tribal Administrator** is the Chief Operating Officer of the Hoonah Tribe(s) of Alaska.

**Section 2. The Tribal Administrator** is employed by the Tribal Council and shall conduct business at the direction of the Tribal Council through Chairman, unless otherwise specifically directed by the Tribal Council.

**Section 3. Among the duties**, including but not limited to, of the Tribal Administrator are as follows:

a. To act as the Tribal Secretary in order to record and keep the actions of the Tribal Council, and to maintain and keep the books and records of the Tribe.
b. At the direction of the Tribal Council through the Tribal Chairman, execute all legal instruments including but not limited to agreements, contracts, leases, deeds, banking and financial documents, certificates, acknowledgments, and such other representation as may be necessary on behalf of the Tribal Council and the Hoonah Tribe(s) of Alaska.
c. To maintain the Tribal enrollment records.
d. To administer all business of the Tribe including grants, contract services, Tribal enterprises, property, cultural programs and such other activities of the Tribe authorized by the Tribal Council
e. To undertake all other official business of the Tribe as directed by the Tribal Council and the Tribal Chairman.

## ARTICLE XI. TRIBAL COURT

**Section 1. The Tribal Council shall by ordinance** establish and prescribe the functions of the Tribal Court. The ordinance shall establish qualifications for the judges of the Tribal Court and provide for their appointment, provide for the employment of court employees, and provide for rules of civil and criminal procedure and court administration.

**Section 2. The Tribal Court shall be empowered** to exercise all judicial authority of the Tribes and shall have only such jurisdiction as is delegated to it by the Tribal Council.

**Section 3. The Tribal Court shall be comprised of** a Chief Judge and such Associate Judges, as are deemed necessary by the Tribal Council. The Chief Judge and each Associate Judge (if any) shall be appointed by the Tribal Council and shall serve for terms of not less than four (4) years and two (2) years, respectively. A judge of the Tribal Court may be suspended or dismissed by the Tribal Council as provided in the ordinance only for conviction of a felony, conviction of a crime involving moral turpitude within the previous five years, gross neglect of duty, malfeasance in office, misconduct reflecting on the dignity and integrity of the Tribal Court, or disqualification to serve as a judge.

## ARTICLE XII. FEDERATIONS, AFFILIATIONS AND SUBSIDARIES

**Section 1. The Tribal Council may charter** or otherwise authorize and provide for the organization of subordinate groups or entities to perform governmental and proprietary functions for the Tribes and their members tribal citizens, and to delegate to such subordinate groups or entities such powers as it shall determine under such rules and regulations and subject to such limitations and conditions as it shall prescribe.

**Section 2. The Hoonah Tribe(s) of Alaska shall form** an act as the Tribal Council for those Tribal members who are enrolled to the Central Council Tlingit and Haida Indian Tribes of Alaska, a regional Tribal entity established by the United States Congress. The Tribal Council may establish such political and governmental relations with the Central Council Tlingit and Haida Indian Tribes of Alaska, as may be necessary to benefit those Tribal members who are enrolled with the Central Council. Such government relations shall be conducted on a "government to government" basis. The Hoonah Tribe(s) of Alaska may send representation to the Central Council Tribal Assembly in accordance with such Rules of Election as may be prescribed by the Central Council. No action of the representatives attending or participating in Central Council Assembly meetings or other activities of the Central Council shall be binding

on the Hoonah Tribe(s) of Alaska unless specifically approved and authorized by formal action of the Hoonah Indian Tribal Council.

## ARTICLE XIII. INITIATIVES, PETITIONS AND REFRENDUMS

**Section 1. Initiative and Referendum Procedures.** The citizens of the Tribe may propose and enact laws by the initiative, and approve or reject enactments of the Tribal Council by the referendum. An initiative may only propose laws which the Tribal Council is empowered to enact. An initiative or referendum is proposed by a petition setting forth on the top of each page the proposed law to be initiated or the declaration, ordinance, resolution, public notice or motion to be repealed, and carrying the signatures, printed names and addresses of no fewer than thirty percent (30%) of the eligible Tribal voters, provided that the Tribal Council may initiate a referendum on its own motion without a petition. A referendum petition may only be filed within ninety (90) days of the enactment of the declaration, ordinance, resolution, public notice or motion to which it is directed.

The text (or summary thereof) of the proposed law or action shall be placed on the ballot of the first special or general Tribal election held more than sixty (60) days after the filing of the initiative or referendum petition, provided that an election on such petition shall be held no more than 120 days after its filing, provided, further, that if prior to the election the Tribal Council takes action to enact or repeal an ordinance substantially similar to the measure proposed, the petition shall be deemed void.

An initiated law becomes effective thirty (30) days after certification of the results of an election at which a majority of the votes cast are in favor, and for two years thereafter may be amended by the Tribal Council, but not repealed. A declaration, ordinance, resolution, public notice or motion rejected by referendum is void thirty days after certification of the results of an election at which a majority of the votes cast favor rejection.

No initiative or petition may apply to the dedication of Tribal revenues, to Tribal appropriations, to the establishment of Tribal judicial systems, to local or special legislation, or to the repeal of laws necessary for the immediate preservation of the public peace, health, or safety.

## ARTICLE XIV. ELECTIONS

**Section 1. General Elections.** The Tribal Council shall set the date of the second Tuesday in December of every year for regular elections, and shall give at least thirty

(30) days notice of such elections, posted in a public place. At the regular membership meeting in November, the enrolled Tribal members eligible to vote shall make nominations and determine candidates for election to the Tribal Council. One-third of the adult members of the Tribal enrollment eligible to vote shall constitute a quorum.

**Section 2. Special Elections.** The Tribal Council shall call special elections as necessary, provided that at least thirty (30) days notice of such special elections is provided by posting in a public place.

**Section 3. Voter Qualification.** Any citizen of the Tribe who is enrolled as a Tribal member who eighteen (18) years of age or older shall have the right to vote in all tribal elections, provided that he or she has been domiciled within the territory and jurisdiction of the Tribe for at least six (6) months directly preceding the election, unless such right to vote has been taken away pursuant to a Tribal ordinance.

**Section 4. Election Ordinance.** The Tribal Council shall adopt an election ordinance establishing rules and procedures to govern all aspects of voter registration, campaigns, nominations, candidate filings, election, election protests, and related matters.

**Section 5. Term.** All council members and the Chairman shall be elected by secret ballot. The terms of the Council members other than the Chairman shall be staggered as follows: At the first general election following the adoption of this Constitution, the voters shall elect two (2) Council members for one-year terms, two (2) Council members for two-year terms, two (2) Council members for three-year terms, and the Chairman for a four-year term. Thereafter at each annual general election the voters shall elect four (4) Council members for three-year terms. The voters shall elect the Chairman every four (4) years. Beginning with the first general election following the adoption of this Constitution, each Council member shall serve until his or her successor has been elected and seated. All Council members holding office at the time this Constitution is adopted shall remain in office until the next general election referred to in this Section.

**Section 6. The Tribal Council shall enact** an ordinance governing general and special elections, petitions for recall, initiative, referendum and constitutional amendment in conformity with this Constitution. The ordinance shall provide for all aspects of general and special elections, including secret ballot, absentee voting, temporary absence from the community, and notice of election, notice of nomination of candidates, election appeal, and certification of elections.

## ARTICLE XV. OATH OF OFFICE

**Oath of Office.** Before entering upon their official duties, all members of the Tribal Council and all other Tribal officers shall take and subscribe to the following oath or affirmation to be administered:

"I, _____, do solemnly swear and affirm that I will support the Tlingit customs, laws and Constitution of the Hoonah Tribe(s) of Alaska, that I will promote and protect the best interests of the Tribe, and that I will faithfully discharge the duties of my office according to the best of my ability."

## ARTICLE XVI. RECALL, FORFEITURES, REMOVALS AND VACANCIES

**Section 1. Forfeiture.** Any member of the Tribal Council who (a) submits a written resignation, (b) is convicted by any competent court of a felony or any other offense involving dishonesty while in office, (c) has his or her citizenship rights taken away, in whole or in part, for good cause shown, or (d) is absent from three (3) successive monthly Tribe Council meetings in one year without being excused by the Tribal Council for good cause shown, shall automatically forfeit his or her office and shall be so notified by the Chairman in writing.

**Section 2. Removal.** Any member of the Tribal Council found guilty by the Tribal Council of neglect of duty, gross misconduct in office, or any offense involving dishonesty may be removed from office by the Tribal Council by at least five (5) Tribal Council members voting by secret ballot, provided that such member shall first be given ten (10) business days notice in writing of the charges against him or her, and be given an opportunity to answer such charges before the Tribal Council. No member of the Tribal Council shall preside over the meeting at which his or her removal is being considered. All questions of removal under this Section shall be resolved by the Tribal Council and the decision of the Tribal Council shall be final.

**Section 3. Recall.** Any member of the Tribal Council may be recalled by the Tribal voters if a valid petition requesting such recall and setting forth the reasons, signed by at least thirty percent (30%) of the eligible voters, is presented to the Tribal Council. The Tribal Council shall, within thirty (30) days of receipt of such petition, call an election to consider the recall of the named official, such election to be conducted pursuant to the election ordinance. If a majority of the voters vote in favor of the recall at an election at which at least thirty percent of the eligible voters participate, the official shall be removed. No official may be subjected to recall proceedings more than once in the course of his or her term.

**Section 4. Vacancies.** The Tribal Council shall appoint a person who meets the requirements for nomination to fill a vacancy caused by the death, forfeiture, removal, resignation or recall of a Council member, and such appointed person shall serve the full unexpired term of the member and thereafter until a successor has been duly elected and seated; provided, that in the event of a vacancy in the position of Chairman, the Vice Chairman shall temporarily vacate his or her position and automatically serve as Chairman until a successor Chairman has been duly elected and

seated at the next general election for the balance, if any, of the unexpired term of office of the Chairman, provided further that in such an event, the Tribal Council shall appoint a person who meets the criteria of Section 3 of this Article to fill the resulting vacancy on the Council, such appointed person to serve until a successor Chairman has been duly elected and seated, and the Tribal Council shall thereafter elect from its members, an Acting Vice Chairman.

## ARTICLE XVII. AMENDMENTS TO THE CONSTITUTION

**This Constitution** may be amended by a majority vote of the qualified voters of the Tribe at an election called by the Secretary of the Interior in which at least thirty percent (30%) of the qualified voters take part. The Secretary shall call such an election on a proposed constitutional amendment at the request of five (5) of the seven (7) Tribal Council members, or upon petition of thirty percent (30%) of all citizens of the Tribe, eighteen (18) years of age or older. To the extent required by federal law, amendments to the Constitution shall become effective when approved by the Secretary of the Interior or his or her authorized representative.

## ARTICLE XVIII. ADOPTION

**This Constitution,** when adopted by a majority vote of the qualified voters of the Hoonah Tribe(s) of Alaska of Alaska voting at an election called for that purpose by the Secretary of the Interior or his authorized representative in which at least thirty percent (30%) of those entitled to vote participate, shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of his approval, as provided in the Indian Reorganization Act.

## ARTICLE XIX. SAVINGS AND SEVERABILITY

**Section 1. All enactments and official acts** of the Hoonah Tribe(s) of Alaska, previously knows as the Hoonah Indian Association, promulgated or adopted prior to the effective date of this Amended Constitution shall remain in full force and effect to the extent they are not inconsistent with any provision of this Constitution, and in the event of any conflict with this Constitution, the provisions of this Constitution shall control.

**Section 2. The provisions of this Constitution** are severable, and should any provision of the Constitution be determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other provision of this Constitution.

## CERTIFICATE OF RESULTS OF ELECTION

## CERTIFICATE OF APPROVAL

We, the undersigned, do hereby certify as follows:

1. **The above-written Constitution** is a valid and effective Constitution adopted and amended pursuant to Section 16 of the Act of Congress of June 18, 1934, and Section 1 of the Act of Congress of May 1, 1936. It contains amendments to the Constitution of the Hoonah Tribe(s) of Alaska. The Constitution of the Hoonah Tribe(s) of Alaska was initially approved by Fred H. Daiker, Assistant to the Commissioner of Indian Affairs, Secretary of the Interior, on August 19, 1939, and was adopted by the membership on _____.
2. **This Constitution, as amended,** was adopted by a majority vote of the qualified voters of the Hoonah Tribe(s) of Alaska voting at an election called for that purpose by the Juneau Area Director of the Bureau of Indian Affairs, acting on behalf of the Secretary of Interior, held on December ___, 2003, at which election at least thirty percent (30%) of those entitled to vote did vote. The vote at such election was _____ in favor of, and _____ against, the adoption of the Constitution as amended.
3. **This Constitution, as amended,** is hereby approved on behalf of the Secretary of the Interior, to be effective as of the date of ratification. All rules and regulations promulgated by the Department of the Interior or by the Bureau of Indian Affairs, or by the predecessor of either, so far as they may be incompatible with any of the provisions of this amended Constitution, are hereby declared inapplicable to the Hoonah Tribe(s) of Alaska. All officers and employees of the Department of Interior are ordered to abide by the provisions of this Constitution.

Date: December ____, 2003

_____
Juneau Area Director
Bureau of Indian Affairs

Date: December ____, 2003

_____
Inspector of Elections

Date December ____, 2003

_____
Chairman of the Meeting

## CERTIFICATE OF APPROVAL

I, Niles Cesar, Regional Director, Bureau of Indian Affairs, on behalf of the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 230 D.M. 2.4, do hereby approve the Constitution of the Hoonah Tribe(s) of Alaska, formerly known as the Hoonah Indian Association. This approval shall not be construed to validate any assertion that the Hoonah Tribe(s) of Alaska has governmental authority over land (including management of, or regulation of the taking of fish and wildlife) or persons who are not members of the Tribe, absent a ruling by a court of competent jurisdiction, an opinion of the Solicitor of the Department of the Interior or an Act of Congress subsequent to the date of the certification which indicates the existence of such authority over lands or non-members. This Constitution is effective as of this date, provided, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

_____
Area Director, Alaska Region
Bureau of Indian Affairs

Date:_____

Attest:_____
Tribal Officer
Bureau of Indian Affairs